

Mail Stop Interference
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Filed
January 12, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MARK DOUGLAS HOWELL,
CHERYL LYNN SELINSKY, and LELAND CHARLES LEBER
Junior Party
(Patent 6,379,708),

v.

M. RIGDON LENTZ
Senior Party
(Application 09/709,045).

Patent Interference No. 105,413
(Technology Center 1600)

MAILED

JAN 12 2006

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

DECLARATION - Bd.R. 203(d)¹

1 **Part A. Declaration of interference**

2 An interference is declared (35 U.S.C. § 135(a)) between the above-identified
3 parties. Details of the application(s), patent (if any), reissue application (if any),
4 count(s) and claims designated as corresponding or as not corresponding to the
5 count(s) appear in Parts E and F of this DECLARATION.

6 **Part B. Judge managing the interference**

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 Administrative Patent Judge Sally Gardner Lane has been designated to
2 manage the interference. Bd. R. 104(a).

3 **Part C. Standing order**

4 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
5 DECLARATION. The STANDING ORDER applies to this interference.

6 **Part D. Initial conference call**

7 A telephone conference call to discuss the interference is set for **7 March 2005**
8 **at 2:00 pm** (the Board will initiate the call).

9 No later than **four business days** prior to the conference call, each party shall
10 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
11 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

12 A sample schedule for taking action during the motion phase appears as Form 2
13 in the STANDING ORDER and a default schedule is attached to this Declaration.
14 Counsel are encouraged to discuss the schedule prior to the conference call and to
15 agree on dates for taking action. A typical motion period lasts approximately eight (8)
16 months. Counsel should be prepared to justify any request for a shorter or longer
17 period.

1 **Part E. Identification and order of the parties**

2 Junior Party

3 Named inventors: Mark Douglas Howell
4 Fort Collins, CO

5
6 Cheryl Lynn Selinsky
7 Fort Collins, CO

8
9 Leland Charles Leber
10 Fort Collins, CO

11
12 Involved Patent: 6,379,708, issued 30 April 2002
13 from application 09/444,144, filed 20 November 1999

14
15 Title: METHOD FOR ENHANCING IMMUNE RESPONSES
16 IN MAMMALS

17
18 Assignee: CYTOLOGIC, LLC CENTRE FOR ADVANCED
19 TECHNOLOGY

20
21 Senior Party

22
23 Named Inventors: M. Rigdon Lentz
24 Brentwood, TN

25
26 Involved Application: 09/709,045, filed 10 November 2000

27
28 Title: METHOD AND SYSTEM TO REMOVE CYTOKINE
29 INHIBITOR IN PATIENTS

30
31 Assignee: BIOPHERESIS TECHNOLOGIES, INC

32
33 The senior party is assigned exhibit numbers 1001-1999. The junior party is

34 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party

35 is responsible for initiating settlement discussions. SO ¶ 126.1.

1 **Part F. Count and claims of the parties**

2 Count 1

3 Claim 23 of Lentz (09/709,045) or claim1 of Howell (6,379,708).

4

5 The claims of the parties are:

6 Howell: 1-44

7 Lentz: 23-41

8 The claims of the parties which correspond to Count 1 are:

9 Howell: 1-44

10 Lentz: 23-41 The claims of the parties which do not correspond to

11 Count 1, and therefore are not involved in the interference, are:

12 Howell: none

13 Lentz: none

14 The parties are accorded the following benefit for Count 1:

15 Howell: none

16 Lentz: US 09/699,003, filed 26 October 2000

17
18 US 09/316,226, filed 21 May 1999,
19 issued as patent 6,231,536 on 15 May 2001

20
21 US 09/083,307, filed 22 May 1998
22 issued as patent 6,620,382 on 16 September 2003

23

24 **Part G. Heading to be used on papers**

25 The following heading must be used on all papers filed in this interference, see

26 SO ¶ 106.1.1:

27

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3
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6

7
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9 CHERYL LYNN SELINSKY, and LELAND CHARLES LEBER
10 Junior Party
11 (Patent 6,379,708),
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13 v.
14

15 M. RIGDON LENTZ
16 Senior Party
17 (Application 09/709,045).
18

19 Patent Interference No. 105,413
20 (Technology Center 1600)
21
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23 **Part H. Order form for requesting file copies**

24 When requesting copies of files, use of SO Form 4 will greatly expedite
25 processing of the request. Please attach a copy of Parts E and F of this
26 DECLARATION with a hand-drawn circle around the patents and applications for which
27 a copy of a file wrapper is requested.

/Sally Gardner Lane/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER
Form PTO-850
Copy U.S. Patent 6,379,708
Copy of claims of 09/709,045
Copy of default times for taking action

Revised 3 January 2006

cc (via overnight delivery):

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Alexandria, VA 22314

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